

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

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TO		Take necessary action	<input type="checkbox"/>
	Room 7B14	Approval or signature	<input type="checkbox"/>
	Office of Congressional Affairs	Comment	<input type="checkbox"/>
	CIA	Prepare reply	<input type="checkbox"/>
		Discuss with me	<input type="checkbox"/>
		For your information	<input type="checkbox"/>
		See remarks below	<input type="checkbox"/>
FROM		DATE	3/4/86

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REMARKS

Attached for your information is the DOJ letter on DOD's addition to the 1987 Intelligence Bill.

OMB FORM 4
Rev Aug 70



Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 24, 1986

Honorable James C. Miller III
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Miller:

This responds to your request for the views of the Department of Justice on a draft addition submitted by the Department of Defense for inclusion in the Intelligence Authorization Act for Fiscal Year 1987. This provision, which apparently was included in the final version of the Intelligence Authorization Bill for Fiscal Year 1986, 1/ would authorize the Secretary of Defense to use proceeds from counterintelligence operations conducted by components of the military departments to offset necessary and reasonable expenses of such operations, when the use of appropriated funds to meet such expenses would not be practicable. The authority would be separate from the authority provided in Title V of the bill for the military departments to conduct proprietary operations in support of intelligence collection activities.

In principle, we do not object to inclusion of this provision in the intelligence authorization bill, but we believe it should be drafted more tightly. We assume that the intent behind the provision is only to authorize the use of proceeds derived from an operation to offset expenses incurred in that operation, not to create a revolving fund that would finance other counterintelligence operations. The authority provided to proprietaries by this bill, as well as the undercover authority for the FBI and the DEA, clearly limit the use of proceeds to the particular operation from which they are derived.

As written, however, the Defense Department's draft is ambiguous on that point. We recommend, therefore, that the draft language be clarified as follows (new material is underlined; deletions are in brackets):

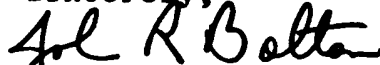
1/ It is not clear that this particular provision was included in the preliminary drafts of the 1986 bill reviewed by this Department.

SEC. 707(a). The Secretary of Defense may authorize, without regard to the provisions of Section 3302 of Title 31, United States Code, use of proceeds from any counterintelligence operation[s] conducted by components of the Military Departments to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in that [such] operation[s], if the use of appropriated funds to meet such expenses would not be practicable.

(b) As soon as the net proceeds from a [such] counterintelligence operation[s] are no longer necessary for the conduct of [those] that operation[s], such proceeds shall be deposited into the Treasury as miscellaneous receipts.

Thank you for the opportunity to present our views on this provision.

Sincerely,



John R. Bolton
Assistant Attorney General